

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 98-2210

Robert Miller Pope,

Appellant,

v.

United States of America,

Appellee.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: December 14, 1998

Filed: December 30, 1998

Before FAGG, BEAM, and LOKEN, Circuit Judges.

PER CURIAM.

After a jury found Robert Miller Pope guilty of conspiring to distribute marijuana, in violation of 21 U.S.C. § 846, and of money laundering, in violation of 18 U.S.C. § 1956, we affirmed his convictions and sentence on direct appeal. See United States v. Pope, 989 F.2d 506 (8th Cir. Mar. 11, 1993) (unpublished per curiam). Pope then filed a 28 U.S.C. § 2255 motion raising five claims for relief, all of which were rejected by the district court¹ following a hearing. In this appeal from the denial of his

¹The Honorable Warren K. Urbom, United States District Judge for the District of Nebraska.

motion, the only issue before us is whether Pope's counsel was ineffective for failing to properly present at sentencing evidence of Pope's allegedly minor role in the offense, as grounds for a two-level reduction under U.S. Sentencing Guidelines Manual § 3B1.2(b) (1997). We affirm.

We conclude Pope's ineffective-assistance claim fails. After specifically considering the evidence Pope contends counsel should have offered at sentencing, the district court reaffirmed its prior conclusion that Pope was not entitled to the role reduction, see Strickland v. Washington, 466 U.S. 668, 687 (1984) (movant must show both deficient performance and resulting prejudice), noting that Pope's involvement in the conspiracy was substantial, even if shorter in duration than that of other co-conspirators, see United States v. Jones, 145 F.3d 959, 963 (8th Cir.), cert. denied, 67 U.S.L.W. 3322 (U.S. Nov. 9, 1998) (No. 98-6369); cf. United States v. Snoddy, 139 F.3d 1224, 1228 (8th Cir. 1998).

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.